Beloit Corporation *and* Heidi Crawford and District 68, Local 1197, International Association of Machinists and Aerospace Workers, AFL–CIO. Case 30–RD–1072

March 10, 1993

ORDER AFFIRMING DISMISSAL

BY CHAIRMAN STEPHENS AND MEMBERS OVIATT AND RAUDABAUGH

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel, which has considered the Employer's request for review of the Regional Director's administrative dismissal of the instant petition. (Relevant portions of the Regional Director's dismissal letter are attached.) The request for review is denied as it raises no substantial issues warranting review. However, in adopting the Regional Director's finding that the petition should be dismissed because the requested unit is not coextensive with the existing recognized unit, we do not rely on his application of the legal doctrine of merger to find that the plant clericals were merged with the production and maintenance unit as a result of the self-determination election. Rather, we find that the logical and unambiguous intent of the entire self-determination election process was to allow the plant clerical employees to become part of the existing represented group of production and maintenance employees. *Southern Indiana Gas Co.*, 284 NLRB 895, 898 (1987), enfd. 853 F.2d 580 (7th Cir. 1988); see also *NLRB v. Raytheon Co.*, 918 F.2d 249 (1st Cir. 1990). Since a majority of the clerks who voted in the self-determination election cast ballots indicating a ''desire to be included in the existing unit of production and maintenance employees currently represented by'' the Union, they joined that unit on certification. No party challenged the validity of that election, or raised any objection to it. See *Wells Fargo Armored Services Corp.*, 300 NLRB 1104 (1990). Thus, the current unit encompasses both the production and maintenance employees and the clerks. Accordingly, the petition to decertify only the clerks must be dismissed as it is not coextensive with the current unit.

APPENDIX

Regional Director's Dismissal Letter

The above-captioned case, petitioning for an investigation and determination of representatives under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

As a result of the investigation, it appears that further proceedings on the petition are not warranted at this time for the following reasons.

In *Wisconsin Bell*, 283 NLRB 1165 (1987), the Board stated:

> The Board has long recognized the ''merger doctrine'' under which an employer and union can agree to merge separately certified or recognized units into one overall unit. This doctrine was recently affirmed in our decision in *Gibbs & Cox*, 280 NLRB 953 (1986) [Fn. 3; See, e.g. *White-Westinghouse Corp*., 229 NLRB 667 (1077); *General Electric Co*., 180 NLRB 1094 (1970).] Where such agreement has been reached, the larger merged unit is the only unit appropriate for purposes of a representation election.

Here, on March 28, 1991, District 68, Local 1197, International Association of Machinists and Aerospace Workers, AFL–CIO (the Union) filed a petition for a unit of department clerks in Case 30–RC–5244. Board policy precludes the establishment of a separate unit of plant clerical employees where the union petitioning for them currently represents a unit of production and maintenance employees.[1] The Union represents approximately 600 production and maintenance employees of the Employer and the currently effective collective-bargaining agreement covering production and maintenance employees is effective by its terms from April 16, 1990, through April 2, 1993. On April 18, 1991, I approved a Stipulated Election Agreement for a self-determination election on May 31, 1991, in the following unit:

> All department clerks, stockroom clerks, and shipping clerks employed by the Employer at its Beloit, Wisconsin and South Beloit, IL plants; but excluding all office clerical employees, professional and technical employees, time study employees, guards and supervisors as defined in the Act, and all other employees.

Section 14 of the Stipulated Election Agreement specifically states:

> 14. If a majority of valid ballots are cast for the Union, they will be taken to have indicated the employees' desire to be included in the existing unit of production and maintenance employees currently represented by Local 1197, District 68, International Association of Machinists and Aerospace Workers, AFL–CIO. If a majority of valid ballots are not cast for the Union, they will be taken to have indicated the employees' desire to remain unrepresented.

The same language appeared on the notice of election which was posted for employees prior to the election.

The tally of ballots for the election conducted on May 31, 1991, designated the election as an *Armour-Globe*-type election and reveals that, of approximately 18 eligible voters, 12 cast ballots for and 6 cast ballots against the Union. On June 10, 1991, the Certification of Results of Election issued which states:

> An election has been conducted under the Board's Rules and Regulations among the following employees: All department clerks, stockroom clerks, and shipping clerks employed by the Employer at its Beloit, Wisconsin and South Beloit, IL plants; but excluding all office clerical employees, professional and technical employ-

[1] *Robbins & Meyers, Inc*., 144 NLRB 295, 299 (1963).

> ees, guards and supervisors as defined in the Act, and all other employees.
>
> The Tally of Ballots shows that the petitioner has been selected by these employees to represent them. No timely objections have been filed.
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> As authorized by the National Labor Relations Board, It is certified that District 68, Local 1197, International Association of Machinists and Aerospace Workers, AFL–CIO, may bargain for these employees as part of the group of employees that it currently represents.

In these circumstances, as the result of a self-determination election on May 31, 1991, the plant clerical employees were merged into the production and maintenance unit. The parties agreed, pursuant to the Stipulated Election Agreement, and the employees were notified by the notice of election, that a ballot cast for the Union was a ballot cast to become a part of the production and maintenance unit. The Board certified that the Union may bargain for the plant clerical employees as part of the group of employees that it currently represents.

In *Wisconsin Bell*, the parties merged the units by consensual contractual agreement. Here the situation is stronger for merger because the parties consented to an election to determine the merger question and the affected employees voted for merger. Adding the *Robbins & Meyers* policy into the meld only reinforces the conclusion that the groups are properly merged. Therefore, the instant decertification petition for the department shipping and receiving clerks is not coextensive with the currently recognized and established larger merged unit.[2] I am, therefore, dismissing the petition in this matter.

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[2] See *Green-Wood Cemetery*, 280 NLRB 1359 (1986); *Westinghouse Electric Corp*., 227 NLRB 1932 (1977).